THE LAW AS A VOCATION

ALLEN

THE LAW AS A VOCATION

BY

FREDERICK J. ALLEN

Assistant Director, Bureau of Vocational Guidance
Division of Education, Harvard University

WITH AN INTRODUCTION

BY

WILLIAM HOWARD TAFT

CAMBRIDGE, MASS.
PUBLISHED BY HARVARD UNIVERSITY
1919

PREFACE

IT is the purpose of the following pages to present a clear, accurate, and impartial study of the law in the hope of offering assistance to those who are attempting to choose a career or who are about to enter upon the profession. This necessitates a review of the nature of the law, present-day legal conditions, personal and educational entrance requirements, the dangers and disadvantages incident to practice, the high professional demands made upon the lawyer, the varied fields of service open to him, his probable earnings and emoluments, — in a word, all that has a distinct and important bearing upon the law as a vocation.

If this book confirms the young man of ability in his choice of the profession and keeps out of its ranks those who have not the natural and acquired fitness necessary for success, the purpose of the book will have been accomplished. It is sent out to young men and their advisers with this end in view.

While this publication does not claim to be exhaustive or final, the investigations upon which it is based have been made with extreme care. Lawyers of high professional standing and people connected with many divisions of the profession have been interviewed. All available sources of information have been used and the material, both in its rough draft and in its final form, has been submitted to many authorities.

Special acknowledgment is due the following persons: —

Dean John H. Wigmore, of the Law School of Northwestern University, who contributed valuable suggestions and material and read the proof of the first edition of the book.

Dean Homer Albers, of the Law School of Boston University, who read the original manuscript in full.

The late Dean Ezra R. Thayer, of the Law School of Harvard University.

The Librarian of the Social Law Library, Boston, for use of the resources of the Library.

Mr. Arthur W. Spencer, Editor of *The Green Bag*, for helpful suggestions on legal publications.

My associates in the Bureau of Vocational Guidance, who have contributed valuable material for Chapter V in this revision of the book.

FREDERICK J. ALLEN.

CAMBRIDGE, MASSACHUSETTS,
January, 1919.

CONTENTS

INTRODUCTION

THE importance of the law as a profession has not been reduced but is greatly increased by the new era which is to follow this war. The formulation into a practical advance of the new ideals must be the work of lawyers. Lawyers in their profession are synthetic and constructive. Many a man can deliver an oration, painting in beautiful colors the principles which should guide and the purposes which should be achieved, but the number of men who can draft the statutes and prepare the machinery by which the principles can be sustained and the ideals realized is limited. The study of the profession of the law giving, as it does, familiarity with the actual operation of statutes, the difficulty of their enforcement growing out of the defects of human nature in those whose compliance with the law is necessary, and a knowledge of the administration of justice — all fit lawyers to lead in the real progress of a nation. More than this, in the progress likely to take place, the nice balance between private right and public necessity must be preserved in order that individual initiative and the spur of the advance of all by the advance of each shall not be lost. It is lawyers who are to defend this private right. It is lawyers who are to assert the necessity of the public weal. It is lawyers on the bench who

are to hold the balance even between the two. Never in the history of the world is the profession of the law to play a greater part than in the century to follow this great upheaval of fundamental elements of society.

WILLIAM H. TAFT.

WASHINGTON, D.C.
January 14, 1919.

THE LAW AS A VOCATION

CHAPTER I

THE FIELD OF THE LAW

ANY young man who approaches the study of the law as a possible future profession is more than likely to get his first impression of the lawyer from the stories of famous court practitioners, or from the biographies of statesmen, politicians, and successful business men. It is probable that if he tries to form a concrete picture of the lawyer, he imagines him either as an attorney advising his clients upon legal matters or in a court room pleading a case. That there are many other activities in which a lawyer may engage, and that his profession includes not only interesting possibilities for service, but also a great variety of possible connections with industrial, municipal, and educational matters will be made clear by the account which follows.

In its historical development law followed the establishment of government. It gradually came to consist of the body of rules and practices relating to the conduct of men in communities. All law may be regarded as an expression of public will and custom, slowly developing with the advancement of civilization. Its principles constitute a science; its practice is an art. Preparation for the profession must involve both the study of the science and the application of its principles.

The profession of the law has always appealed to young men and especially was this true during the early years of our Republic when its practice opened many avenues to usefulness and distinction in public life. Its modern demands are so high, and the conditions of genuine success so exacting that it is inevitable that many of the ill-equipped and misguided beginners who flood the ranks of the legal profession should fail of success.

The early service of the lawyer in England was as an attorney in the courts, as one officer of a system to establish or maintain justice. It was necessary that each of the litigants or disputants in a case at law should be represented by a person especially trained in the law, who could present his client's case in its strongest aspect and call the attention of the presiding officer, judge, or jury to the law set forth as applying to the case. This was the lawyer's first service in the community. He has always been regarded as an officer of the court, to assist in the working out of the law's just application between man and man.

The functions of the lawyer as attorney in the courts have greatly enlarged. With the gradual evolution of society and the development of the complex system of law in our modern civilization the profession of the law has broadened into various and clearly defined fields of service. Thus the lawyer of the present day may choose fields of activity that were not open to his predecessors. Court practice, while still a conspicuous part of his duty, has given way in large degree to many

other kinds of service, ranging from the writing of legal papers to acting as counselor for corporations.

In the main fields of practice lawyers may be classified into five leading divisions. Any lawyer may have the bulk of his practice in one of these major fields, and have at the same time some activity in any other field. The main divisions are, the General Practitioner, the Criminal Lawyer, the Tort Lawyer, the Real Estate Lawyer, and the Patent Lawyer. A sixth division is the Admiralty Lawyer.

The general practitioner performs various kinds of legal service, such as may be called for in any community. These are treated at length in Chapter II.

The criminal lawyer is one whose chief practice lies in the criminal courts, dealing with offenses against society or the state.

The tort lawyer tries damage suits, as in case of trespass, accident, or other injury. Industrial accident cases figure largely in this division, which is an extensive and distinct field of the profession. One may be a plaintiff lawyer, regularly handling cases for parties who claim damage; or a defendant lawyer, generally serving a liability insurance company, corporation, or other employer, that may be sued for damages.

The conveyancer or real-estate lawyer is chiefly an examiner of titles, mainly for savings banks, coöperative banks, and individuals. He acts, also, as trustee, and holds funds for investment. He is in close touch with the real-estate business, as agent in buying and selling, and may himself engage in that business. He

may be called to practice in the probate courts in the administration of estates, handling trusts, and in the appointing of guardians. Because of his knowledge of the law, the lawyer is very generally chosen for services of this nature.

The patent lawyer acts as an agent in securing patents from the national government and as general attorney in patent cases.

The admiralty lawyer deals with litigation arising from accidents or other causes at sea. This is a highly specialized division of the law and one of increasing importance.

Office practice and court practice are closely related and both may enter into the work of any lawyer. The general term used upon lawyers' signs is "Attorney and Counselor-at-Law," thus indicating this double form of activity. The collector of accounts may sue a debtor and take the case to the courts, thus passing into the field of court practice. Yet the legal adviser, or counselor-at-law, in a multitude of instances brings about the settlement of cases out of the court.

In England the terms "barrister" and "solicitor" have long been used to distinguish kinds of practice. The barrister is the court practitioner; the solicitor, the office practitioner. The latter is not allowed, as in this country, to appear as pleader in the courts, but must be regularly represented by a barrister. On the other hand the latter very generally employs a solicitor to prepare a case for presentation in the courts. While we have adopted the English common law we have

abandoned these restrictions imposed in that country upon its practice.

Many lawyers appear but little before the courts, often but a few times a year, and some never enter court at all. Such are office practitioners and general counselors, and their practice is largely of a private nature.

In such practice lawyers examine the validity of titles to property for persons about to make purchases; they draw up wills, contracts, corporation papers, or other legal documents; they act as trustees for estates in cases calling for legal training, as administrators and executors of estates, as guardians for minors, as collectors of accounts for individuals or for corporations, as general advisers on questions of law, or as legislative agents.

Such private practice constitutes a large part of the work of the profession, and young men who study law must look forward in the main to this kind of activity, often commonplace and uninspiring but useful and necessary in modern communities.

On the other hand the work of the office practitioner may be public, semi-official, or of a distinctly judicial nature. In this case the lawyer acts as public administrator, master in chancery, referee in bankruptcy proceedings, auditor of public accounts, and justice of the peace or notary public.

Such duties, especially of the notary and justice, may be combined with those given above as belonging distinctly to the private field.

Lawyers, whether in court or office practice, usually become notaries or justices for the convenience of their clients who may desire to acknowledge deeds or other legal papers. Sometimes men outside of the profession, whose business or associations offer opportunity for such service, obtain appointments and act as notaries and justices.

Appointments to these offices are made by the governors of states, upon the payment of a small fee and for a definite term of years.

A court is a place for the administering of justice under the law. It is an organized body, having clearly defined powers, and meeting at fixed times and places, to hear and decide upon cases at law and other matters that may be brought before it. Its head is the judge who presides, and decisions are rendered by the judge or, in jury session, by a jury of twelve men chosen from the voting list of the district in which the court meets.

The usual officials of a court are the following:

1. Attorney and counsel, who present and manage the business of the court.
2. A Clerk, who records and attests its acts and decisions.
3. Court Officers, who maintain decorum.
4. A Probation Officer, in recent times.
5. Interpreter.
6. Stenographer.
7. Attendants and assistants.[1]

[1] See *Cyclopedia of Law and Procedure*, American Law Book Co., ii, 654.

The court practitioner, who may deal with criminal cases, damage suits, real estate or other property, patents, or cases of less frequent occurrence, comes before the federal or state courts according to the nature of subjects in dispute and the law involved. A simple offense in a small community may be treated before a justice of the peace; in a larger town, before the police court; in a city, before the police or municipal court. A more important matter may come within the jurisdiction of the higher state courts, or pass by appeal up to the Supreme Court of a state. In Massachusetts the Superior Court is the great trial court. Still other cases, affecting the laws or interests of the national government, or affecting the interests of more than a single state, or of citizens in different states, may come before the United States district courts, and go by appeal to the United States Supreme Court.

In earlier times in this country the lawyer very generally entered into all the divisions of the profession, and the majority of lawyers still have a varied practice. As in other professions, however, there is now a tendency toward specialization in some part of the great field.

To summarize and show the various divisions of practice as a whole, and especially to make clear the federal and state courts, the following outline is presented:[1]

[1] There are various other special forms of courts or functions of courts that necessarily are not included in this list.

The Office Practitioner as a General Counselor

Practice of a Private Nature

1. Examination of Titles.
2. Drafting Wills, Contracts, and Similar Legal Papers.
3. As Trustee in the Management of Estates.
4. As Administrator or Executor Upon Estates.
5. As Trustee or Guardian for Minors.
6. As Collector of Accounts.
7. As General Consultant and Legal Adviser.
8. As Legislative Agent.

Practice of a Public Nature

1. As Public Administrator.
2. As Master in Chancery.
3. As Trustee or Referee in Bankruptcy.
4. As Auditor.
5. As Notary and Justice.

The Court Practitioner, in the Various Courts

The Federal Courts

1. The United States Supreme Court.
2. The United States Circuit Courts of Appeals.
3. The United States District Courts, one in each district within the circuit.
4. Admiralty Courts.
5. The Courts of the District of Columbia.

The State Courts

1. The State Supreme Court, held in the various counties of a state, called the Appellate Court in several states.
2. The Superior Court, held in each county.
3. The Probate Court, in each county.
4. The Land Court.
5. The District, Municipal, or Police Court, in large towns or cities.
6. The Court of the Trial Justice, in small cities or towns.

Public Offices Based on Legal Training

1. Register of Probate.
2. Register of Deeds.
3. Clerk of Court.

CHAPTER II

SERVICE AND OPPORTUNITIES IN THE PROFESSION

THE attorney-at-law is occupied mainly by litigation between private individuals or corporations. This form of practice, with the minor duties constituting office practice, as outlined in the preceding chapter, makes up the larger part of the activity of the profession. Very frequently individuals of fair intelligence, honesty, and judgment in business matters, but having no training in the law, serve as trustees, administrators, executors, or guardians. The lawyer, however, by virtue of his legal training, is eminently fitted to act in these and similar forms of practice. In the examination of titles and the drafting of all sorts of legal papers a considerable technical knowledge of the law, beyond that usually acquired by the layman, is indispensable. Such minor activities, especially in connection with the preparation and execution of legal papers, in some instances compose the lawyer's main practice.

The lawyer spends a part of his time in studying law, reading statutes, decisions, reports, and treatises. The printed decisions in various states range from one to eighteen or twenty volumes a year. With these and

other legal material the lawyer is bound to have some acquaintance. Furthermore, the lawyer spends part of his time studying miscellaneous topics, which become the subject of litigation, such as street paving, the coal business, the chemistry of wall paper, and so on. Every science may have something to say to the lawyer. Part of his time is spent in consultation with his clients; first of all to ascertain the facts of their case, and afterwards to explain to them their rights on the facts. He also spends time writing letters, and doing sundry business incidental to giving advice to his client. This work for the client branches out into a search for missing witnesses, examination of records of deeds to discover the ownership of real estate, the perusal of the account books of a client to find out the balance of a claim, or similar investigations. Furthermore, part of his time is spent in the writing of pleadings and briefs; the pleadings are the statements of claim or defense made by him to the court; the briefs are his written arguments of law giving the legal reasons why the law favors his client's case. Finally, he spends much of his time in arguments to the judge and the jury; and in the examination of witnesses and other proceedings in court. Here, as in all occupations, nine-tenths of the work is what may be called routine work, or even drudgery. This cannot be escaped. The lawyer does not spend his time in preparing and delivering eloquent orations. As in other occupations, the really interesting work, full of perpetual zest, is usually a small part of the whole.

The time for the lawyer's work is not fixed. He may work four hours a day, or twenty-four hours a day. He has few holidays and vacations; and the more successful he is, the fewer he is likely to take.

The clients with whom the lawyer has to do are of all sorts, rich and poor, old and young, bankers, car-drivers, public officials, ragpickers, railroad superintendents, and persons in all the walks of life. Some lawyers who have specialized in their practice may meet only one class of clients, for example, bankers; but this is not usual.

An attorney who is conducting a case in court often has the advice and aid of other lawyers as counsel or associates.

There are many lawyers throughout the country engaged in the public service as salaried prosecuting officers, both by appointment and by popular election. They serve as attorneys for town, city, county, district, state, and nation. These positions, in state and federal service, are as follows:

1. Town or City Solicitor.
2. County or District Attorney.
3. The Attorney General of a state, and his assistants.
4. The United States District Attorney, and his assistants.
5. The Attorney General of the United States, and his regular and special assistants.

There are also lawyers connected, as federal officials, with various government bureaus, such as the

Bureau of Insular Affairs or the Bureau of Engraving and Printing.

The duty of the public prosecutor is obviously to prosecute all offenders against the laws of the jurisdiction, or district, which he represents. Thus a county attorney would prosecute offenders for offenses committed within his county; a district attorney, for offenses within his district. The city solicitor seldom conducts a prosecution. He advises city officials and defends the city in civil suits brought against it.

The attorney general of a state has jurisdiction throughout the state, and usually takes personal charge of the more important cases on trial. Such an official must defend his jurisdiction in suits brought against it for any cause. He is also regularly called upon for legal opinions on questions arising in governmental affairs, and is the official legal adviser of the chief executive over him, as mayor or governor.

The bench is the term used for the body of the judges who preside over the various courts, state and federal. Judges are usually appointed or elected from the ranks of lawyers of extended court practice and of judicial temperament. The trial justice or the police-court judge may be a layman appointed to the office, but the higher positions demand the utmost legal training, the fullest knowledge of law, and known honesty and fairness of mind.

The judiciary in this country includes the following: —

In the State Courts

1. Judge of the Court of the Trial Justice.
2. Judge of the Police Court, Municipal Court, or District Court.
3. Judge of Probate.
4. Judge of the Superior Court of a State.
5. Associate Justice of the State Supreme Court or of the Appellate Court.
6. Chief Justice of the State Supreme Court.

In the Federal Courts

1. Judge of a District of Columbia Court.
2. Judge of a special court, such as Court of Claims.
3. Judge of the United States District Court.
4. Judge of the United States Circuit Court of Appeals.
5. Associate Justice of the United States Supreme Court.
6. Chief Justice of the United States Supreme Court.

The clerk is an officer of a court of justice who has charge of the clerical part of its business. He is the recording officer of a court. He has the custody of its seal, keeps its records, issues processes, administers the oath to witnesses before the court, enters judgments and orders, gives out certified copies of the records, or performs such other duties as are connected with its records. He is appointed to office by a court or judge

or elected by popular vote, for a term fixed by statute or other provision.

The clerk may or may not be a lawyer, but must be skilled in court procedure. Unofficially he sometimes advises with the attorney or counsel for either side of a case upon its conduct in the court. Frequently, also, the clerk of a court becomes a practicing attorney.

A lawyer at the bar or a judge on the bench may be appointed a member of a special commission, board, or court, such as the Boston Transit Commission, the Metropolitan Water and Sewerage Board, The Massachusetts State Board of Arbitration and Conciliation, or the Hague Court of Arbitration. Such bodies are created, generally, to investigate and determine questions in which vital points of law are involved, and draw their members largely from the legal profession. A special board or commission often employs legal counsel to aid in the conduct of its work.

In equity cases a lawyer may be appointed by the court, usually upon the recommendation of the opposing lawyers in a case, to hear the evidence and report to the court upon the facts of a case. The master's office is a branch of the court. The lawyer appointed for this service in law cases is called an auditor.

The registry of probate is the recording division of the probate court. The register of probate is the recording officer of a county for the probating of wills. He has the care and the custody of all books, documents, and papers belonging to the court or filed in the registry of probate, such as records of the admin-

istration of estates, of the appointments of guardians for minors or other persons, of the adoption of children, or of changes in the names of individuals.

The register is elected for a term of years by popular vote. He must be fully trained in the law. His office is an important one, along with that of the judge of probate, and is regularly filled by a lawyer.

The register of probate generally has an assistant who is appointed by the judge of probate.

The register of deeds is the keeper of land records for a county or district of a county. His duty is to record all deeds and other legal instruments relating to land transfer which must be kept on file in the registry of a county or district, and to attest and give out copies to persons entitled to them.

The register of deeds is nearly always a practicing lawyer. He is elected for a term of years, and appoints his own assistant.

Some lawyers serve as the salaried attorneys and counselors of corporations. In the increasing complexity of modern industrial conditions, in which business is becoming largely professionalized, this form of service is of growing importance. It may be the lawyer's only activity, and it sometimes leads to his becoming a general manager or other official of a corporation, leaving his place as special counsel to be filled by another member of the profession. As in state affairs, especially in earlier times, the influence of the lawyer is now permeating the fields of industry and commerce.

The general work of the profession falls into two major divisions of practice, office practice and court practice. Office work in turn divides into private and public.

While a few lawyers enter business at the top, through becoming attorneys for large business enterprises, very many young men with legal training, which is of value in all forms of business activity, go into various positions in the business world instead of undertaking the practice of law at all, or after practicing for some length of time. In many cases young men take the law school course as a preparation for business, especially the courses offered by evening law schools.

Sometimes lawyers who conduct an active practice are engaged also in business enterprises, alone or as partners or associates of others, as in the case of the real-estate lawyer.

Practicing lawyers and men trained in the profession are engaged in teaching the various branches of the law, as professors, instructors, and lecturers, in many educational institutions in this and other countries. Such institutions include law schools, schools of commerce and finance, medical schools, colleges, and universities.

In addition to practice, and frequently out of their practice, some lawyers become writers and journalists. There is an ample field in the law journals, secular magazines, the daily press, and in legal textbooks and treatises on legal subjects. By dealing with the great

public questions of the day, the lawyer as writer may become a publicist of far reaching influence.

Even more than in other countries lawyers in this country have borne a large part in public life from the founding of the Republic. Not only has the profession filled the judicial department of government, but it has contributed very largely to the legislative and executive branches. This is due to several causes, the public nature of the lawyer's practice, his wide acquaintance, his knowledge of men and of civil and political affairs, and frequently his experience and ability in public speaking. This place of the profession in political life is to be expected, also, from the fact that those who know the law are well equipped to take a leading part in its making and enforcement.

Lawyers are found in considerable numbers in the governing bodies of towns and cities, in state legislatures, and in the National Congress. Many governors of states, some of our presidents, and members of their cabinets have been lawyers.

The lawyer's training and his place in the community should make him naturally an adviser and leader in movements for the public good. When public-spirited, he enters into many social, civic, educational, and philanthropic enterprises. In the Free Legal Aid societies the lawyer renders one of his most useful services.

In practice before a legislative body public interests are involved. Here the lawyer may render the highest service to the community, like that of the founders of

the Republic. The great social, economic, and industrial problems of the present time, such as the regulation of trusts, the fixing of railway rates, the municipalization of public utilities, and the relation between capital and labor call for the exercise of legal ability of the highest order.

" Here, consequently, is the great opportunity of the bar. The next generation must witness a continuing and ever-increasing contest between those who have and those who have not. The industrial world is in a state of ferment. The ferment is in the main peaceful and, to a considerable extent, silent; but there is felt today very widely the inconsistency in this condition of political democracy and industrial absolutism. The people are beginning to doubt whether in the long run democracy and absolutism can co-exist in the same community: beginning to doubt whether there is a justification for the great inequalities in the distribution of wealth, for the rapid creation of fortunes, more mysterious than the deeds of Aladdin's lamp. The people have begun to think; and they show evidence on all sides of a tendency to act. Those who have never had an opportunity of talking much with laboring men can hardly form a conception of the amount of thinking that they are doing. With many it is the all-absorbing occupation, the only thing that occupies their minds. Many of these men otherwise uneducated talk about the relation of employer and employee far more intelligently than most of the educated men in the community. The labor question involves for them

the whole of life and they must in the course of a comparatively short time realize the power which lies in them. Many of their leaders are men of signal ability, men who can hold their own in discussion or action with the ablest and best educated men in the community. The labor movement must necessarily progress; the people's thought will take shape in action, and it lies with us to say on what lines the action is to be expressed; whether it is to be expressed wisely and temperately or wildly and intemperately; whether it is to be expressed on lines of evolution or on lines of revolution. Nothing can better fit one for taking part in the solution of these problems than the study and preëminently the practice of law. Those who feel drawn to that profession may rest assured that they will find in it an opportunity for usefulness which is probably unequaled. There is a call upon the legal profession to do a great work for this country." [1]

[1] From an address upon The Opportunity in the Law, by Louis D. Brandeis, before the Harvard Ethical Society on May 4, 1905; printed in the *American Law Review* for July–August, 1905.

CHAPTER III

PREPARING FOR THE PROFESSION

CERTAIN personal qualities are fundamental for success in the law; others, though of high value, are secondary. The fundamental qualities are as follows:

Moral Integrity, worthy of the trust often involved in handling the property and other interests of clients, or able to withstand inducements to unprofessional conduct. This involves intellectual honesty.

Persistence, to carry on to completion any piece of work undertaken. This means unlimited capacity for hard work.

Sound judgment, to take a right and well-informed attitude in questions involving law and facts.

Self-confidence, a belief in one's ability successfully to handle a task when once entered into.

Concentration, power to bring all one's thought and activities to bear on a case in hand.

These basal qualities, with adequate training in the profession, are likely to bring at least a fair degree of success; the lack of any one of them is a serious handicap, and accounts for most failures.

The following characteristics are of decided advantage in the law:

Tact, so to conduct one's self towards clients and others as to ensure coöperation and good-will.

Spirit of fellowship, towards professional and other associates, ability to mingle with men.

Business sense, for handling trusts and for wise action in general business matters.

Accuracy, in noting and presenting details.

Poise, to act deliberately in matters involving excitement or haste.

Decision, the power of decisive action in case of need.

Vigilance, to guard the interests of clients.

Foresight, to see in advance the probable result of a course of action or of a sequence of events.

Caution, in reaching conclusions and in making statements to clients or others, in private or in public.

Fair-mindedness, fair play towards an adversary.

Power of analysis, to resolve a case or an argument into its component parts. This means logical capacity.

Power of original thought, to work out problems in which no precedent is found.

Power of clear expression, to present facts clearly to a client, judge, or jury. The court practitioner must be able to speak effectively.

Knowledge of human nature, to understand rightly the personal and human element in a case.

Gift of sympathy, to take the part of a client properly.

Nature of a student, to keep in touch with the progress of the common law, with changes in the statutes, and with decisions of the courts, along with one's own special practice.

Nature of an investigator, to study a case in its deepest relations and most intricate bearings.

High-mindedness, to rise above the petty contentions of the profession and to aim at absolute justice in legal causes; to dignify practice with character.

A lawyer of wide reputation, the dean of a well-known American law school, has suggested the following requirements for the successful practice of law: Mental capacity, ability to deal with abstract ideas; a mind capable of receiving polish, by educational processes; the full training of modern courses in law; general culture.

In the earlier history of the American bar young men prepared for the profession by " reading law," or studying, in a lawyer's office. They then perfected themselves by long years of practice. Prospective students generally sought to study with lawyers of ability and reputation. Students were frequently taken into lawyers' offices in groups or classes. Such study included the reading of books upon the law, the preparation of legal papers, investigation of facts and cases for the lawyer or firm giving the training, and attendance upon cases in court. The results in some cases were satisfactory, as is shown by the eminent lawyers of former years who received their training in this way.

That even the office method of preparation could be modified, and that the law student was quite independent of school or office, is evident from the following advice of Abraham Lincoln to a young man in 1855:

" If you are absolutely determined to make a lawyer of yourself the thing is more than half done already. It is a small matter whether you read *with* any one or not. I did not read with any one. Get the books and read and study them in their every feature, and that is the main thing. It is no consequence to be in a large town while you are reading. I read at New Salem, which never had three hundred people in it. The *books* and your *capacity* for understanding them are just the same in all places. . . . Always bear in mind that your own resolution to succeed is more important than any other one thing."

Most young men who entered the profession studied in law offices and were admitted directly to the bar, without law school training. While the old method of reading law in an office is still followed to a slight extent in small towns at a distance from law schools, it has become necessary that the student take at least a partial course in a law school. The increasing complexity of the law, the multiplication of decisions year by year, the later widening of the lawyer's practice, and the great complexity of modern business have all tended to this result. The late Chief Justice Waite thus spoke in regard to this change: " The time has gone by when an eminent lawyer, in full practice, can take a class of students into his office and become their teacher. Once that was practicable, but now it is not. The consequence is that law schools are now a necessity."

But before law schools were established in this country, law was taught to some extent in American colleges as a part of a liberal education. In a few colleges and universities there were professorships of law, and some of the foremost lawyers of the times taught or lectured in the higher institutions.

The first special law school established in America was that of Judge Tapping Reeve, a graduate of Princeton. This school was opened in 1782 at Litchfield, Connecticut, and became famous throughout the country. It closed its doors in 1833, having enrolled 1024 students many of whom were later eminent in the profession. The Harvard Law School was established in 1817, and that at Yale in 1824. The number increased slowly, however, until after the Civil War period.

The law school is a distinct development in the growth of a great profession. It is more than a necessity; it is a great advantage. Important gains result from the constant association of students and teachers in the class room and in the general school life. The lawyer must mingle freely with men and the training of the modern law school gives an ideal preparation for active practice.

While law schools in the past, especially those offering evening courses, have admitted young men having only a high school education or its equivalent, and in some instances less than that, the present tendency is towards increasing entrance requirements. Some schools, especially those connected with the great uni-

versities, now demand one or two years of college work, and two at least now admit only students having the college degree of A.B. or B.S.

This demand for a higher standard in entrance requirements is clearly indicated by the recent action of many law schools, as shown in the following quotation from the Report of the United States Commissioner of Education for 1910:

"The need of a higher standard in general education as a preliminary to the study and practice of the law is being generally recognized. Beginning with the school year 1911–12, the entrance requirement in Western Reserve University, Franklin T. Backus School of Law, will be the degree of A.B. or B.S.; University of Minnesota college of law, two years of college work; University of Missouri school of law, two years of college work; University of California, Hastings College of Law, one year of college work; University of Illinois college of law, one year of college work; University of Kentucky college of law, one year of college work; Cornell University college of law (for three years' course), one year of college work; University of Nebraska college of law, one year of college work. Beginning with the school year 1912–13, the entrance requirements in the University of California, Hastings College of Law, will be two years of college work; University of Colorado department of law, Colorado Law School, two years of college work; University of Denver law school, one year of college work; University of Kansas school of law, one year of college work; Uni-

versity of Michigan department of law, one year of college work.

"Of the 765 students enrolled in Harvard Law School in 1909–10, all except 6 were college graduates. 'When the bachelor's degree was required for admission there in 1897, exception was made for special students, not graduates of colleges, who might be admitted after examination, and on completing the work of the school with an average grade of B might receive the degree. The number of men who availed themselves of this opportunity has not been large, and has gradually diminished.' Therefore, 'the faculty of the school voted that hereafter special students should not be eligible for the degree of bachelor of laws.'" [1]

In addition to the use of case-books or textbooks and lectures in the law school concrete cases at law are studied as in actual practice. The class room is made to serve as a court room. The student is trained to think and reason logically and clearly by a right use of this system. He masters a case by actual study of it, and comes to rely upon himself in handling it at the outset. He is student and practitioner in one. The advantage of this method has commended itself so generally that law schools in all parts of the country have adopted it.

President Emeritus Eliot in speaking of Professor Langdell, who introduced the case system at Harvard,

[1] Schools of Law, in Professional Schools, Chapter XXIII of *Report of the United States Commission of Education for 1910.*

said: "He told me that law was a science. I was quite prepared to believe it. He told me that the way to study a science was to go to the original sources. I knew that was true, for I had been brought up in the science of chemistry myself; and one of the first rules of a conscientious student of science is never to take a fact or principle out of second-hand treatises, but to go to an original memoir of the discoverer of that fact or principle. Out of these two fundamental propositions — that law is a science, and that science is to be studied in its sources — there gradually grew, first, a new method of teaching law; and, secondly, a reconstruction of the curriculum of the school."

The principal degree given by American law schools is that of Bachelor of Laws, LL.B. In the report of the Committee on Legal Education of the American Bar Association for 1906, the latest giving such information, it is stated that ninety-six schools grant this degree. Of these forty-eight require a full high school education for entrance and maintain a three-year course of study. Several schools offer the degree of Bachelor of Law, L.B., Bachelor of Common Law, B.C.L., or Bachelor of Jurisprudence, J.B. Nine schools offer the degree of Doctor of Jurisprudence, J.D., or Doctor of Common Law, D.C.L. Nineteen grant the master's degree, LL.M., after one year of postgraduate study in the profession.

The degree of Doctor of Laws, LL.D., is almost universally reserved in this country to signify the highest honor a college or university can bestow, for eminent

attainment in any field, for great distinction in some line of activity, or for high public service.

The primary purpose of legal education, from the professional standpoint, is to train the mind to think in legal terms, to know where and how to find the law applying to a particular case, and after a due investigation of the law and of the facts involved to advise clients and courts.

" There are two distinct classes of law publications in this country: *First*, those publications which are of primary authority, such as federal and state constitutions, treaties made between the United States Government and foreign powers, ordinances, government orders and regulations, and, last, but by no means least, the reports of judicial decisions. *Second*, those books that are published for the purpose of ascertaining and determining the law — books which should not be depended upon as conclusive in their statement of the law, for the reason that they are not authoritative, but which are valuable as indexes to and as abridgments of the reports. This class of publications, which may be designated as books of secondary authority, consists mainly of digests, encyclopedias, and textbooks.

" You will find it very useful when you engage in practice to have a familiar acquaintance with all the various kinds of law books and series of law books that fall under these different headings; for example, if you have a case that turns upon the provision of some par-

ticular treaty made between the United States Government and some foreign power, you should know just where to go to look for a published copy of the treaty in question, or, if you have the title of a case decided in the court of last resort in Pennsylvania, New Jersey, Kentucky, or Texas, or in some other state where the 'official' reports do not contain all of the cases decided, and you find that the decision you want is not reported in the 'official' series of reports, it would prove very beneficial to you to know where to go to find a report of that case.

"There are so many matters of importance to the practicing lawyer regarding legal bibliography that it is as essential a student should learn about law books and their use as it is to learn the principles of this or that legal doctrine. . . .

"The average lawyer, unless he has been properly educated along the line of investigating authorities and is familiar with the classification upon which the leading digest and law encyclopedia publications of the country have been based, is liable to do considerable guessing and to waste a great deal of time before he finds proper reference to the decisions on the principles of law involved. . . .

"You had better go to a school where you will be taught the practical end of the business, for I regret to say it seems to be coming more of a business and less and less of a profession every day. I could tell you of many cases that have been lost simply because authorities could not be found and cited to support the

theory advanced. You may be sure the judges won't take the time and trouble to investigate the cases themselves, unless you call their attention to them by direct citations; nor will they accept your statements as to what the law is, or what it is not, unless your contentions are supported by proper reference to the decisions." [1]

Our law is a national growth, founded on the old "common law" of England. The student should, however, become familiar with the laws of other countries, in the field of comparative jurisprudence. The first principles of law in all enlightened countries are the same, — the fundamental rights of man.

The old aspect of the lawyer as a leader in public thought is now beginning to return and a movement is starting to reshape the law and to improve the courts. In order to take part in these movements and to act intelligently on the various questions that arise in communities, the lawyer must be a man of the widest education and sympathies.

True leadership in the profession will depend upon ability, equipment, and moral and social qualities. Beneath the heading, Leadership in Law, in a conspicuous place in a well-known law school, appears the following statement:

"The faculty of the Law School believes that *morals*, as well as *learning*, are essential to sound leader-

[1] *The American Law School Review*, November, 1906.

ship through the law, and that both of these qualifications should be accompanied with *judgment*, *tact*, *energy*, and *decision*.

"The training of the Law School will accordingly seek to cultivate and develop these traits and qualifications."

CHAPTER IV

ENTERING INTO PRACTICE

A STRONG fraternal spirit characterizes those who engage in the legal profession. The bar is the term used for lawyers as a class, and bar associations are organizations of lawyers joined together in localities to further their general interests. The bars of the various states, counties, or cities are entirely separate from one another. Each is a brotherhood of lawyers fostering a community of practice and of ethics.

After the usual course of study the law student may take the bar examination given annually or oftener in each state by a board of examiners composed of members of the profession. In the past many of these examinations have been conducted upon a low standard of attainment and ability on the part of the student, so that in numerous cases unworthy candidates have been admitted to practice. One of the most hopeful signs, however, is the generally increasing dissatisfaction in the profession itself over this condition, which is likely to be remedied along with the raising of requirements for entering the law school. The result will be a higher type of student and candidate for admission to the bar. The one who successfully passes the bar examination and meets the usual requirements

is regularly admitted to practice in the courts of the state. He becomes a member of the bar of the state, but not of a bar association except by joining one.

Of the following rules, nine were adopted in 1915 by the section of Legal Education of the American Bar Association. These and the remaining rules were referred in 1916 by the American Bar Association to the Committee on Legal Education and directed to be printed in full in the Association Journal.

1. Examinations for admission to the bar should be conducted in each state by a board appointed by the highest appellate court.

2. A law diploma should not entitle the holder to admission to the bar without examination by this board.

3. The candidate shall on admission be a citizen of the United States.

4. He shall also be a citizen of the state in which he is applying for admission, or prove that it is his intention personally to maintain an office therein for the practice of the law.

5. Character credentials on application for admission shall include the affidavits of three responsible citizens, two of whom shall be members of the bar, and the affidavits shall set forth how long a time, when, and under what circumstances those making the same have known the candidate.

6. Three years' practice in states having substantially equivalent requirements for admission to the bar shall be sufficient in the case of lawyers from other

jurisdictions applying for admission on grounds of comity.

7. There is no necessity for the insertion in the rules of a reciprocal comity provision; that is, of a proviso prohibiting the admission of lawyers from other states on grounds of comity, unless the state from which the lawyer comes extends similar courtesies to lawyers from the bar of the state in which the candidate is applying for admission.

8. Students shall be officially registered at the commencement of their course of preparation for the bar, but only after a report of the State Board as to fitness, based upon its inspection of the candidate's credentials establishing that he has complied with the requirements of rules 8 and 9. The registration shall be with the clerk of the highest appellate court.

A candidate removing from a jurisdiction having similar standards for registration may have the registration transferred. Nunc pro tunc registration may be permitted, but only when the candidate had the requisite education at the date as of which he desires to be registered and he presents sufficient excuse for not having previously registered.

A candidate, removing from another jurisdiction where such registration is not required, may be registered nunc pro tunc under similar conditions.

9. Proof of moral character shall be required as a prerequisite to registration.

10. No candidate shall be registered as a student at law until he has passed the necessary requirements for

entrance to the collegiate department of the State University of the candidate's state, or of such college or colleges as may be approved by the State Board of Law Examiners, or an examination equivalent thereto conducted by the authority of the state.

11. All applicants, after being educationally qualified, should be compelled to study law for four years, the first three of which must be spent in compulsory attendance upon, and the successful completion of, and passing, the prescribed course of instruction at an approved law school which requires not less than three years of resident attendance for the completion of its course and for graduation therefrom, and then the service of a continuous year of registered clerkship, as prescribed, exclusive of all other occupations: Provided, however, that the fourth year may be passed in an approved law school in post-graduate work, and that the applicant's law school course shall have included adequate courses in procedure and practice.

12. Candidates for admission shall present themselves prepared for examination in the following subjects: Constitutional law, including the constitutions of the United States and . . . (the candidate's state), equity, trusts and suretyships, the law of real and personal property, evidence, decedents' estates, landlord and tenant, mortgages, contracts, partnership, corporations, crimes, torts, agency, sales, negotiable instruments, domestic relations, master and servant, common-law pleading and practice, federal and state practice, conflict of laws, professional ethics, the fed-

eral statutes relating to the judiciary and to bankruptcy, and the development in . . . (the candidate's state) of the principles of law, as exemplified by the decisions of its highest appellate court and by statutory enactment, and other subjects ordinarily covered in the curriculum of standard law schools.

13. At least thirty days before the State Board's certificate shall be issued to any candidates who shall have passed the examination, the name of such candidate shall be published by the Board in a newspaper of general circulation, and also in a law periodical, if there be one within the state jurisdiction.

14. From the examination fees received the members of the State Board shall receive such compensation as the highest appellate court of the state may from time to time by order direct.

15. The fee for examination for admission shall be $25, and passing upon registration credentials in the matter of general education qualifications, $5.

16. The State Board shall consist of five members of the Bar, no one of whom shall receive student candidates in his office in preparation for call to the bar, or be connected with the faculty or governing body of any law school presenting candidates for admission.[1]

The American Bar Association has adopted a code or canon of ethics, which sets forth the professional

[1] *Rules for Admission to the Bar In the Several States and Territories of the United States*, in force January 1, 1917, together with the Code of Ethics adopted by the American Bar Association, annotated to cases in point, ninth edition, St. Paul, Minn., West Publishing Co., 1917.

duties or ethical obligations of the lawyer. This code may be briefly summarized in its chief points as follows:

The duty of the lawyer toward the courts

It is the duty of the lawyer to uphold in all respects the honor and dignity of the court.

Toward the bench

Only lawyers of judicial fitness and unselfishness should be elected as judges.

Toward those accused of crime

The lawyer may undertake the defense of a person accused of crime, and is bound by all honorable means to help in the securing of justice.

In conflicting interests

It is unprofessional to represent conflicting interests, except by the agreement of all parties concerned.

Advising upon the merits of a client's cause

A lawyer should advise a client only upon full knowledge of the cause in question, and should then give his candid opinion. It is improper for him to assert, in argument, his personal belief in regard to the client or the cause in litigation. The lawyer must follow his own conscience rather than that of his client, and should direct the client in a right course.

Negotiations with an opposite party

A lawyer should not communicate upon a case with an opposite party represented by counsel.

Acquiring interest in litigation

The lawyer should not acquire any financial interest in a case which he is conducting.

Charges for professional service

The lawyer's charges should depend upon the value of his advice and his services to a client, on the magnitude of interests involved, and on the client's ability to pay. Controversies with clients in regard to charges are to be avoided as far as possible.

Personalities between advocates

All expressions of personality between opposing lawyers are to be avoided.

Treatment of witnesses and litigants

Fairness and consideration should always be extended to the witnesses and parties of the opposing side.

Candor and fairness

The lawyer should deal candidly with the facts from whatever sources and should act fairly and honorably in the consideration of a case.

Attitude toward jury

A lawyer should have no private converse with jurymen or attempt to win their favor by unfair means.

Advertising

The most worthy and effective advertisement is a well-deserved reputation for professional capacity and fidelity to trust.

The lawyer's attitude toward litigation

Stirring up strife and litigation is unprofessional and is indictable at common law. The lawyer should decline to take a case when convinced that it is intended merely to work oppression or wrong. He has the right to decline employment. Every lawyer must decide upon his own responsibility what business he will accept and what causes he will plead in the courts.

The lawyer's duty in its last analysis

" No client, corporate or individual, however powerful, nor any cause, civil or political, however important, is entitled to receive, nor should any lawyer render, any service or advice involving disloyalty to the law whose ministers we are, or disrespect of the judicial office, which we are bound to uphold, or corruption of any person or persons exercising a public office or private trust, or deception or betrayal of the public. When rendering any such improper service or advice, the lawyer invites and merits stern and just condem-

nation. Correspondingly, he advances the honor of his profession and the best interests of his client when he renders service or gives advice tending to impress upon the client and his undertaking exact compliance with the strictest principles of moral law. He must also observe and advise his client to observe the statute law, though until a statute shall have been construed and interpreted by competent adjudication, he is free and is entitled to advise as to its validity and as to what he conscientiously believes to be its just meaning and extent. But above all a lawyer will find his highest honor in a deserved reputation for fidelity to private trust and to public duty, as an honest man and as a patriotic and loyal citizen." [1]

Lawyers may be disbarred or suspended from practice by a high court for unprofessional conduct, such as embezzlement, larceny, or any offense that involves moral turpitude. Complaints against a lawyer, which may be made by any individual, are usually presented to a state bar association. The association acts upon the charge, and if it is sustained lays it before the proper court for final action.

In the statutes of most states of the Union no reference is made to causes of disbarment. In a few states statutes have been made to cover the specific offenses for which a lawyer may be denied practice in the profession.

[1] Section 32, *Code of Ethics Adopted by American Bar Association, Rules for Admission to the Bar*, West Publishing Co., St. Paul, Minn., 1911.

The following are examples:

Massachusetts: " An attorney may be removed by the Supreme Judicial Court or the Superior Court for deceit, malpractice, or other gross misconduct." [1]

California: " An attorney and counselor may be removed or suspended by the Supreme Court, or any department thereof, or by any Superior Court of the State, for either of the following cases, arising after his admission to practice:

" 1. His conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction shall be conclusive evidence;

" 2. Willful disobedience or violation of an order of the court requiring him to do or forbear an act connected with, or in the course of his profession, which he ought in good faith to do or forbear, and any violation of the oath taken by him, or of his duties as such attorney and counselor;

" 3. Corruptly or willfully and without authority appearing as attorney for a party to an action or proceeding;

" Lending his name to be used as an attorney and counselor by another person who is not an attorney and counselor;

" In all cases where an attorney is removed or suspended by a Superior Court, the judgment or order of removal or suspension may be reviewed on appeal by the Supreme Court." [2]

[1] Massachusetts Revised Laws, Chap. 165, § 44.

[2] California Code of Civil Procedure, § 287.

It is advisable in most cases for the young lawyer to settle in the small city or town. In general, living and professional expenses are lower, and competition is less keen, in such places than in the large city. The net income of the average country lawyer is probably fully equal to that of the average city practitioner. Several causes unite to congest the number of lawyers in a metropolis, to the disadvantage of the profession. Many young men whose homes are in or near the city enter practice on smaller earnings by living at home. Some such have incomes outside of their profession, and do not expect large earnings in it. Students of the law school, which is generally in a city, often plan to remain near it, because of acquaintances formed or inducements presented.

There is a variety of avenues open to the young lawyer by which he can begin to establish himself in any community. The following paragraphs present the more usual ways in which the profession is entered:

1. *As employee.* A young lawyer usually becomes an assistant in a law office. Here he may stay from one to five years. Sometimes this place becomes permanent, by his being taken into the firm; but this is rare. The lawyer should not be content, in general, to remain a salaried worker. His natural status is as an independent adviser of clients, and it is advisable that most young lawyers should take the earliest opportunity to become independent.

2. *As independent practitioner.* A practice may be acquired through one or more of the following channels:

(*a*) *Friends.* The young lawyer's friends do not particularly give him their own legal patronage, but they mention his name from time to time, and thus the intending client hears of him, and comes to him. Hence, the more friends a young lawyer has the more rapidly his clients increase.

(*b*) *Clients.* One client leads to another. Often the party whom an attorney has defeated in a case will seek that attorney as his lawyer in the next case. No matter how small the case is, the client may prove a valuable one.

3. *Membership in Societies.* One's circle of acquaintances is enlarged by membership in a religious, political, fraternal, or athletic society. A man who joins such a society solely for the purpose of obtaining clients is, of course, insincere, and this insincerity is soon found out, bringing its own consequences. But every young man has sympathies and interests in some social field, in which he should take an active part, remembering that he will not be sought as a lawyer unless he is known, and he will never be known unless he mingles with men in social ways.

4. *General reputation.* Any honorable way whatever, which leads to the notice of the public, is helpful to the lawyer; but ordinary, direct advertising is forbidden to him. His repute in the community, based on the good word of those who know him, is the only satisfactory test of a lawyer's merits. Hence the chief

publicity of which a lawyer can avail himself is that which thus comes to him indirectly. Sometimes the fortunate conduct of an important case brings a lawyer before the public notice and insures him success as a practitioner.

Formerly the young man who studied in a law office paid for the privilege, and until recently this was the custom in a few localities even in the case of graduates of the law school. In Philadelphia, for example, the charge was frequently one hundred dollars. At the present time the amounts paid to young law school graduates who serve an apprenticeship of six months or one year or more vary widely. In New York and Chicago larger salaries are paid than in other American cities. The more general figures in law offices are from three or five to ten dollars a week at the beginning, with an increase after three or six months according to the magnitude of practice in an office.

Sometimes the assistant has private practice, clients of his own, while still serving in an office. Frequently, also, especially in the large cities, young lawyers combine in the rent of an office and its attendant expenses, but conduct each an independent practice.

The charges for legal services are not at all uniform. They vary according to localities and the conditions involved in each service. It is possible, however, to state figures that very generally prevail in the profession.

Following are the more usual kinds of service performed by the lawyer and the attendant earnings:

The minimum fee for small services, aside from those of the notary and justice, which are fixed by statute, is usually three dollars or five dollars. Such a service may be giving legal advice or collecting a small bill.

The fee for writing a deed or mortgage is usually from three to five dollars.

For drafting a will, under ordinary conditions, the charge varies from five to fifty dollars.

Charges vary greatly in court service, according to the standing and experience of lawyers and the interests involved in a case on trial. The beginner may receive ten or fifteen dollars a day; the lawyer some time in practice, from twenty-five to one hundred dollars; and rarely the charge may reach five hundred dollars a day, or any amount necessary to secure the services of an eminent court practitioner.

In settling a case out of court a lawyer may charge for service actually rendered, according to the magnitude of the interests involved.

In a case for collection involving less than one hundred dollars, and made without bringing suit, the customary charge is ten per cent of the amount involved, though not less than the minimum of three or five dollars.

Above one hundred dollars the scale of charges usually decreases from ten per cent according to the increase in the amount involved, considering always the responsibilities encountered.

Charges for handling ordinary bankruptcy cases range from fifty to three hundred dollars.

The fee for the examination of a title depends upon the length of time consumed. Such research work usually brings from fifteen to twenty-five dollars a day.

For giving an opinion in writing in legal matters the lawyer may charge from ten dollars up to thousands of dollars, according to the nature of a case, time devoted to it, and his own professional standing.

" In fixing fees, lawyers should avoid charges which overestimate their advice and services, as well as those which undervalue them. A client's ability to pay cannot justify a charge in excess of the value of the service, though his poverty may require a less charge, or even none at all. The reasonable requests of brother lawyers, and of their widows and orphans without ample means, should receive special and kindly consideration.

" In determining the amount of the fee, it is proper to consider: (1) the time and labor required, the novelty and difficulty of the questions involved and the skill requisite properly to conduct the cause; (2) whether the acceptance of employment in the particular case will preclude the lawyer's appearance for others in cases likely to arise out of the transaction, and in which there is a reasonable expectation that otherwise he would be employed, or will involve the loss of other business while employed in the particular case or antagonisms with other clients; (3) the customary charges of the Bar for similar services; (4) the amount involved in the controversy and the benefits resulting to the client from the services; (5) the con-

tingency or the certainty of the compensation; and (6) the character of the employment, whether casual or for an established and constant client. No one of these considerations in itself is controlling. They are mere guides in ascertaining the real value of the service.

"In fixing fees it should never be forgotten that the profession is a branch of the administration of justice and not a mere money-getting trade."

The clerk of court or register of probate receives a salary varying from five hundred dollars to five thousand dollars a year; the prosecuting attorney or other public official, from one to five or ten thousand dollars; the judge, from one to fifteen thousand dollars a year. In most cases these amounts are far below what lawyers of the ability required in such positions could earn annually in general practice, so that these forms of public service are often assumed at a personal sacrifice on the part of the practitioner.

There are certain objections to entering the legal profession, arising from conditions and requirements in its practice, which the young man should weigh carefully before deciding upon the law as a life pursuit. In the opinion of the leading members of the American Bar today, as well as of men outside of the profession, the law presents insurmountable objections to the incompetent and poorly equipped. The following conditions, however, affect all practice in the profession:

The field is greatly overcrowded and the average earnings very small. This is the great objection. Only the more able or fortunate in securing profitable legal

practice can hope to win more than a bare competency. Young men may not only be indebted to their families and friends for a course of study covering three or four years in preparation, but after that for a period of five, ten, or even fifteen years consumed in acquiring a competent practice. Many never reach such a practice, and are obliged to turn to some other occupation for part or full income, or to come down to the end of life in straitened circumstances, unable to do for their families what was earlier done for them to place them in the profession.

" The amount of money that is to be expended in any given locality per annum for attorney's service is fixed, although not ascertained; and divide this total sum that will be expended in Boston among Boston lawyers for any given period, and we think that it would be a surprisingly small income to each attorney. If two-fifths of the attorneys, as undoubtedly they do, receive two-thirds or three-fourths of this total income, it leaves but a small balance for the remaining three-fifths.

" The increase of lawyers does not make an increase of law business, nor does their ability or genius add to the sum total to be received, but only tends to distribute it more equally. It is impossible for every lawyer to be financially successful, for there are too many competing for a share of the general fund.

" Exceptional success in the profession should not be taken as a standard to measure its probable advantages, any more than failures should be adopted for a

like purpose. It is the general average that ordinary talent, application and perseverance should try to correctly understand and appreciate.

"As a means of accumulating wealth we claim that the profession has always been and always will be crowded, that the supply is greater than the demand, that the fortunes made in the law are few and insignificant when compared with those made in business." [1]

As to the earnings of lawyers, there are no adequate statistics on which to base any general statement. An earlier edition of this book reported a study of the average earnings of graduates of The Harvard Law School from one to ten years in practice. The results of the study are shown in the following table:

Years in practice	Number reporting	Average yearly earnings
1	694	$664
2	609	1,110
3	497	1,645
4	411	2,150
5	317	2,668
6	249	3,118
7	162	3,909
8	112	4,426
9	62	5,321
10	40	5,325

It should be borne in mind that these are only average earnings and that many persons receive an annual income much less than the amount indicated by the table. At the bottom of the profession are many in-

[1] Section 12, *Code of Ethics Adopted by American Bar Association, Rules for Admission to the Bar*, West Publishing Co., St. Paul, Minn., 1911.

competent men who bring discredit upon their calling in the general estimation of the public.

There are a number of ethical problems which continually arise in practice with which the prospective lawyer or the person just entering upon his career should be acquainted. The work of the law is to establish rights, satisfy claims, protect the innocent against wrong-doers, secure convictions for the guilty, and to maintain a cause in the face of all forms of opposition and misrepresentation.

The ethical question most often asked about the profession is, " How can a lawyer take a case in which he does not believe?" The profession has by some been regarded as somewhat unprincipled because its practitioners are thought of as regularly taking such cases. In reply to this criticism it may be said that the lawyer is likely to believe in a case on its presentation to him, that he may abandon or settle out of court one in which he does not believe, that it is his duty to present his side of a case fairly in court and to look to his opponent to present the other side, and finally that the decision rests not with the attorney but with the judge or jury in the court.

CHAPTER V

PRESENT TENDENCIES IN THE PROFESSION

KNOWLEDGE of present tendencies which are likely to lead to future changes in an occupation is quite as truly of interest to the young man who considers entering that vocation as are the present conditions. What are the tendencies in the profession of law that are specially of interest to prospective students of law?

First we may mention the present tendencies in education for the law. Legal education is developing intensively rather than extensively; that is, it is the increase in the number of courses and in the length of preparation rather than in the number of schools that characterizes the more recent changes in legal education.

The increase in the number of law schools from 1870 to 1917 is as follows:

Year	Total
1870	28
1880	48
1890	54
1900	96
1910	114
1917	132

Meantime there has been a marked tendency to increase the length of the law course. This is shown by the following table:

	No. schools 1-year course	No. schools 2-year course	No. schools 3-year course	No. schools 4-year course
1900	6	43	46	1[1]
1910	2	33	73	4[2]
1917	1	15	111	5

This indicates that standards for a legal education are rapidly rising. The same fact is further emphasized by the changing standards for admission to the bar, advocated by members of the bar. The report of the New York County Lawyers' Association of 1909, in an able discussion of standards of admission to the bar, makes the following criticisms of present methods in legal education:

First: That the average student when he applies for admission, has no, or a very inadequate, knowledge of his various duties.

These duties are fourfold: (1) to the State as an officer and citizen; (2) to the Court as an officer and adviser; (3) to his client as a fiduciary; and (4) to his brother lawyers, out of which grows the "esprit de corps" of the profession; — an indefinable code of honor, courtesy and respect, varying or enlarging to meet the requirements of each case and epoch. He owes loyalty to the State, both as a citizen and as a sworn officer of justice; he owes respect and dignity in his deportment to the courts, and candor and honesty in his statements and dealings with them; to his client he owes his talents, his knowledge, his time, and his fidelity; and in dealing with his brother lawyers, he should be controlled by a proper esprit de corps.

[1] Evening school. [2] Three evening schools, one day school.

The lawyer cannot perform his duty to one of these parties and neglect the others; he cannot be honest to the State, and dishonest to the Court and his client, any more than he can be dishonest to the State and Court, and honest to his client. But his duty can be performed to all without infringing or impairing the rights of the others.

In every employment which the lawyer receives, his primary duty is to the State. In performing this duty, he can fulfill all of his obligations to clients and courts with fidelity and honor. If he attempts to go beyond this, he strikes a blow at society. Why? Because he is a part of the judicial system of the Government. He is appointed to conduct judicial proceedings. If a conflict arise between his duty to the Government and his client, in which the position of the State in its whole corporate capacity is clear (not a mere question of law, applicable to both, or a question of the rights of the citizens, which is in fact the interest of the State itself), he must decide in favor of the former; for the interest of that client is subordinate to the interest of all the other citizens — constituting the State — who are interested in maintaining the entire integrity of the political system. His oath to maintain the laws cannot be performed by giving advice, or resorting to acts, which cause their violation. Of course, he should not prejudge, and in cases of doubt he is free to act as his conscience dictates — honest doubt as to the law, or honest doubt as to the facts.

The tendency of the lawyer, in modern times, is to look to, and think of, nothing but the client's interests, and the question as to how far his professional conduct affects the administration of justice, and the general salutary conditions of the State, is almost lost sight of, indeed, students under the existing systems are not taught to analyze their true relations in this respect.

Second: The student is not instructed in the real nature and functions of his office.

Perhaps he understands vaguely that he is an "officer of the Court" but that only conveys to his mind the idea that the courts may, therefore, summarily reprimand, degrade or punish him. But he is not taught that in general he is an officer of the Court to advise the Court—in many instances to assist it; that in truth he is a real official friend of the Court; that the Court has always the right to call upon him to aid in the administration of justice. The fact that no attention is paid to these fundamental principles in the education of the lawyer, has gradually tended to divorce the lawyers from the courts — they hold each other at arm's length — until the courts have grown suspicious of the Bar and regard its practitioners as constantly endeavoring to wrest from the judicial tribunals, orders, judgments, and decrees, to which they are not entitled; to regard them as purely mercenary, pitiless advocates, careless of everything except success. And, unfortunately, there is ground for this suspicion and belief.

While, as an auxiliary of the Court, the lawyer's vocation has been greatly enfeebled, he is still an officer of very great authority and power.

At the instance of a client, he becomes the official author and creator of all judicial proceedings. He is the fountain head of legal procedure at whose command all legal processes flow.

The lawyer's mandate — the summons, writ, or by whatever name the original process may be called — compels the appearance in Court of the highest or lowliest individual in the land.

Apart from suitors themselves — who are permitted to appear in their own cases — no judicial action can be put in motion without the sanction of some lawyer. He is the sole officer authorized to cause civil action to be begun. If the lawyer approves the client's demand, he can issue, or cause to be issued, process which will bring any individual or corporation before the Court. The demand may be unfounded, the action unjustified, the whole proceeding utterly without merit, in law or in fact, yet the defendant must obey. A lawyer, the day after he is admitted, the veriest tyro in the profession, may, without a title of justice or right, summon the worthiest and purest individual to answer the demands of a professional blackmailer; and although after years, it may be, of litigation, in which character, property, and expense are involved, the suit is dismissed as unfounded, yet the lawyer sits, serenely, in his office, secure from liability, exempted from acts which often, through his negligence or design, have

caused untold mischief and damage. His ordinary mistakes of law, or judgment, cannot be made the basis of a legal demand against him. How many of such mistakes are made, how many causeless actions are instituted, can be easily seen by consulting the records of the courts — which show the number of suits finally dismissed.

Again, the lawyers fill most of the important offices of the National and State governments. The nature of our political institutions invites and seems to encourage this tendency, and almost from his entrance into professional life the lawyer's ambition is fixed upon political and official preferment. The operation of governments existing under written constitutions seems to require, naturally, a vast body of lawyers to keep them running steadily and smoothly within the groove of their powers. This condition demands more than a superficial knowledge of the relation which a lawyer and officeholder bears to society and to his respective governments — State and Federal. It is not communicated by reading principles asserted in political platforms; nor does he imbibe it in a formal official oath, to obey the laws of the land. Such knowledge can only come from serious preliminary study, and a full comprehension of the purposes of his office.

Of an importance perhaps greater than any other office which he can hold, is that of legislator. The legislatures, Federal and State, are filled with lawyers, many of whom are young men just entering upon their careers. No office requires so much learning, experi-

ence, and training as that of a legislator. As Rousseau, in substance, exclaimed: If it be a rare spectacle to see a great prince, what a phenomenal sight it is to behold a real legislator! It is another name for a statesman. Yet under none of our legal educational systems is any special instruction given to the law student as to the duties of a legislator. He is left to imbibe the necessary knowledge from surrounding conditions. He becomes a legislator by absorption and instinct. From the ignorance of legislators largely follows the intricacy and confusion of the law — and the interminable mass of unnecessary legislation.

Third: The educational tests, preliminary and general, are wholly insufficient.

A principal objection to the present system is that there is no oral examination of the candidates. There is no opportunity for the examining board to judge of the general make up of applicants or of their ability, orally, to explain the nature of the profession which they seek to enter, or of the principles of law. Readiness and versatility show mental development, and are no small portion of a legal education. Oral questioning operates as an incitation to ambition; it brings to the surface many qualities which rest inert without it; the oral examination arouses the candidates to exert themselves to pass creditably before the eyes of their associates. Such an examination is conducted with the object of testing the mental readiness and address and legal learning of the candidates; one question leads to another, and one subject opens

a different branch of the law, until a substantial interrogation soon develops the capacity of the candidate. It seems to us, when properly and fully conducted, an oral examination becomes indispensable to test the sufficiency of the student's qualifications. Full allowances can be made for nervousness on the part of the candidates, and the written examination will always be consulted when the final decision as to the qualification of the student is made. This important adjunct of an oral examination is at present omitted for lack of time, on the part of the examiners. No fault can be found with them in this respect, for it is doubtless true that the allotted time is too short, but under a complete course of study, such as we shall hereafter recommend, there would be a visible diminution in the number of applicants, and if there were not, a second or additional Board of Examiners should be provided for, whose duty it would be to examine the students orally. The consideration of saving time in the process of final examinations is of infinitesimal importance compared with securing an improved quality of product. No more important subject confronts the State than to provide a thorough system of examination for law students. No money can be more profitably spent than that devoted to procuring ample facilities for such a purpose.

The written examination, as now framed, is largely a mere test of memory. It covers a field of subjects embraced within the two groups mentioned below,[1] in-

[1] Group 1, Pleading and Practice and Evidence. Group 2, Substantive Law.

volving the solution of many supposititious cases, where good sense, or quick perception, often supplies technical knowledge. These questions have been from time to time preserved and are now actually published in a separate book, so that all students browse over the fields so often covered by their predecessors, and know the general course of examination to which they will be subjected. The whole examination then becomes one of mental dexterity, and of cramming for the final test.

The lectures which a student attends in the law schools cover a space of two years — no; not two years actually, for deducting the summer and ordinary vacations, they are not more than about sixteen or seventeen months. The effort of the law schools is to go over the whole field of the law in this short period. The result is that the studies are necessarily scattering, hasty, and superficial. It is a hothouse system which ripens the fruit untimely and unnaturally; and much of it is permanently injured in its artificial rearing. Modern commercial conditions have resulted in almost a complete change in our lives, habits, and modes of thought. The political, economical, social, and legal questions which confront us are of immeasurable importance, and profoundly difficult to solve. To comprehend them, they, at least, require a knowledge of the structural elements of civil society, and of the fundamental principles of the different kinds of government. A change in the form of our government may even be involved in their eventual solution. The tui-

tion of the lawyer should therefore keep pace with the progress of the age. His education must be of a higher order; it must be broader and wider, to cover the range of the new and complicated subjects which are constantly arising. What was a fair legal education before the Civil War, is now a mere preliminary to a full course.

Fourth: Students are uninstructed in their outside, unprofessional relation to the community.

With the growth of the country, the increase of population, and the evolution of many theories which strike at the roots of our Republican institutions, the lawyer's unprofessional, or outside, relation to the community becomes of the most profound concern. His mission beyond the technical practice of his profession is of immeasurable importance. It is freely to discuss, in private and public circles, constitutional and legal principles. He renders the application of the rule that everyone is presumed to know the law, less hard. He explains the nature of our Federal and State governments to his lay acquaintances; he diffuses the doctrines of the origin of society and enforces the necessity of maintaining the integrity of the law, and of absolute acquiescence in the statutes and decisions of the courts. He descants upon the importance of respecting and preserving existing institutions; of guarding sacredly the rights of persons and property. He explains the various principles of the law so that where they seem harsh and unnatural, he corrects or modifies false or immature judgments. The influence

which a lawyer can have in this important sphere is altogether measured by his character and learning. Where the system of legal training produces a class of immature and badly educated lawyers, the effect is felt by the whole lay community, and it manifestly operates to diminish or counteract the legitimate influence which he should exercise over the people.

In times of excitement, when public passion is aroused to a danger point, the lawyer's voice ought to be almost controlling. He becomes a breakwater between a reckless or lawless multitude and the forms and rules of the law.

It must be remembered that ours is a federative government, constituted by written agreement. The powers and duties of our officials largely depend upon the construction of written constitutions. The best legal training is therefore required for the Bench and the Bar. The trend of Federal and State policies is peculiarly directed by the lawyers. One can assert, then, without exceeding the limits of reasonable criticism, that the inherent welfare of the people in the United States is with the lawyers. When they know their functions and duties and exercise their legitimate influence, the country is sustained by a sound and healthy public opinion which they create and mould. A correct public opinion is the mainstay of every constitutional government. It bears the same relation to our government as pure air does to human health and life.[1]

[1] From Report of Committee on Admissions of the New York County Lawyers' Association, 1909.

Standards in legal education and requirements for admission to the bar are the final responsibility of the state. "At all times the privilege of practising in the courts has been regarded as a proper subject for state control. Society has always exercised the right to scrutinize closely those callings that contribute nothing to its productive wealth, and the legal profession is the one unproductive profession that is made possible only by the existence of organized society itself. Nor is it by any means a mere legal fiction that considers the lawyer an officer of the courts. The best system of laws and the ablest judiciary will fall far short of their designed effect if the advocates are unskilled or dishonest. And if the experience of the past is a criterion, the development of justice and sound public policy itself is closely related to the high standard of the legal profession. The right of society to impose restrictions upon such a profession as the law would seem, therefore, to be as strong as any other of its long continued rights.

"The present regulations (1911) with regard to state requirements for admission to the bar, in the important details are:

"28 states and territories have a single distinctive examining board.

"19 require the approximate completion of a high school course.

"17 prescribe no definite period of legal study.

"1 prescribes a period of eighteen months.

"12 prescribe a period of two years.

" 23 prescribe a period of three years.

" 10 still accept graduates of some law schools without examination." [1]

The above shows a great variation in state requirements for admission to the bar. The reports which have been quoted so extensively above show the attitude of the best of the legal profession in respect to standards for legal education and the tendency towards advocating a uniform standard of admission in the several states and territories. Complete rules for admission to the bar will be found in " Rules for Admission to the Bar," published by the West Publishing Company, St. Paul, Minnesota.

One of the important tendencies of the present time is to increase rather than diminish the overcrowding of the legal profession, mentioned in Chapter III. " There were in the United States in 1900, 114,000 lawyers; in 1890 there were 89,000; in 1880 the number was 64,000; and in 1870 it was 40,000. As the population of the United States in these four decades stood respectively at 38 million, 50 million, 62 million, and 76 million, it will be seen that this means the progressive overcrowding of an already overcrowded profession. It has been estimated that there are twelve thousand lawyers in New York City alone. In no community is there a scarcity of practising lawyers.

" According to the census tables there were in the United States in 1900, 132,000 physicians and sur-

[1] From the *Sixth Annual Report of the Carnegie Foundation for the Advancement of Teaching.*

geons. In the bulletin on medical education issued by the Foundation in 1910 it was calculated after careful investigation that 2,000 graduates annually from the medical schools would furnish an ample supply of new physicians to take the places left vacant by death and other causes, and to keep pace with the growth in population. Assuming, and it is evidently an extravagant assumption, that the proportion of lawyers to the population should be as large as the proportion of physicians, 1,700 graduates annually from the law schools would be sufficient to maintain even the present crowded state of the legal profession. As a matter of fact, in June, 1910, the number of students graduated by the law schools numbered 4,183; and this takes no account of the large percentage of lawyers who are admitted to the bar without having received a law school diploma. If we place the per capita need of a lawyer at the same figure as the need of a physician, and disregard all who enter the profession without completing successfully a law school course, it is evident that the output of the law schools of the present day is far in excess of any necessary demand." [1]

As the report quoted points out, the tendency and the need are for further uniformity in the standards of admission to the bar in the different states. As already suggested in this chapter, to quote further from the above report:

[1] From the *Sixth Annual Report of the Carnegie Foundation for the Advancement of Teaching.*

The remedy for this demoralizing condition can be achieved only by the states themselves. The requirements for admission to the bar, both scholastic and legal, should be placed by all the states upon a high plane, and as far as possible, the advice of the American Bar Association to make these requirements uniform should be followed. Furthermore, the states should exercise a strict control over the law schools within their boundaries, and see that requirements, curricula, equipment, and other important features are fairly uniform, and that the schools do not multiply out of proportion to the needs of the state and its neighbors.

This control is not only legally and morally justifiable, but it is indispensable to any sound progress in legal education. It is a good thing for the good law schools to improve their course of study and raise their requirements of graduation, but this influence is limited to the students who attend such schools. As long as the requirements for admission to the bar are low, it will be found highly profitable to conduct schools with inferior standards, and every raising of standards by the good schools will tend to deflect a larger number of students toward the others, and so to perpetuate the evil. The advantages to society to be derived from a superior legal education do not manifest themselves immediately by indisputable signs. The sharp boy in the office of a sharp attorney may at first be more effective in the legal routine than the youth who is carefully trained to grasp the principles and to ab-

sorb the multifarious learning of his profession. It is only at maturity that it will appear evident that the latter alone can rise to the full responsibilities of the profession. The small successes that are frequently quickly obtained by graduates of the inferior schools will therefore often attract young men destitute of that counsel which looks ahead. The rise in the standards of legal education, therefore, gratifying as it is, can be effective only when it takes place in the standards enforced by the states.

One word further ought to be said, even in a preliminary statement, as to the relation between overcrowding in the profession of the law and the effective administration of justice.

The administration of the courts — both civil and criminal — was recently most severely criticized by lawyers of the highest training. Perhaps no critic has been more definite and emphatic than the president [1] of the United States, himself a trained lawyer and a judge of extended experience.

It is generally agreed that in the administration of the law in this country technicalities are allowed to hamper and often to defeat justice, that the process of the law is unduly delayed, and that legal redress is slow and enormously expensive. In consequence the poor man in the United States is placed at a great disadvantage in seeking legal redress. These are the criticisms of lawyers of the highest character and attainment. They constitute a serious indictment of our

[1] Ex-President Taft.

whole governmental regime and of our civilization. A democracy in which the courts are so conducted, and in which the law is so administered that justice is out of reach of the poor man, is deficient at the most vital point. Such a condition cannot permanently continue if democracy is to endure.

Side by side with this situation, and a most natural supplement to it, is the lack of respect for the law among the great body of Americans, a tendency which so far as one can see is increasing, not diminishing.

For this American disregard of the law there are undoubtedly many contributory causes, but no one can doubt that one of the important factors in bringing about the result is the method under which the courts are conducted and the faulty administration of justice itself. Upon the profession of the law itself rests part of the American disregard of the law, and there is little hope that this will markedly improve until those who represent the law go seriously to work to make the administration of justice a simple, more direct, and less expensive process.

One may safely go one step further and say that so long as men are admitted to the profession of the law upon a low basis that enables a larger number of unfit and ignorant men to enter the profession, just so long will it be difficult to reform the methods of our courts. No one can doubt that there is a very real connection between the overcrowding of the profession and the cost and delay of justice. The profession of the law is not a private and personal occupation. It is a quasi-

public profession, and as such the public has the right to demand a fair preparation on the part of those who are to enter it. The question of legal education and the number and character of those admitted to practice is directly related to the whole question of the administration of justice for ninety millions of people. The reform of court procedure and the simplification of the administration of justice depend mainly on the patriotism and intelligence of the legal profession. Much of this betterment can be effected without legislation. For some of it legislation will be required. And in legislation the members of the legal profession occupy in the United States a unique position. With us, as with no other nation, the door to politics opens through the training of the law. The great majority of both houses of Congress and of most state legislatures are lawyers by profession. This situation imposes upon the members of this profession an unusual responsibility. Not only are the members of the bar directly responsible for the administrative reform of the courts, but they are, in the main, responsible for such legislation as is needed to simplify and improve the conduct of the courts. Moreover, the members of the legislatures, who are to fix the conditions for admission to practice, are drawn in an overwhelming majority from the ranks of lawyers. The governors of the states, who are to approve or disapprove such legislation, are in many cases members of the same profession. In no country in the world does the responsibility for legislation rest so heavily upon a single profession as

in the states of our American Union. Not only do lawyers legislate for the whole country, but they themselves fix the conditions that determine the morals and the efficiency of their own profession. Is the question of standards of legal education brought before the legislature of a state? It is the decision of a group of lawyers that determines the issue. Is the legislature called on to fix the lists of admission to the bar of the state? It is the members of the bar who decide, because the legislature is composed overwhelmingly of members of the bar.

It would be an interesting study to follow the course of legislation in this matter in the separate states. When such a question comes before the lawyer members of a legislature, will it be decided by those of high professional ideals, or by those of a different training? Will the members of a legislature vote patriotically to advance the conditions of admission to the bar beyond the standards of their own day, or will they hold to the inferior standard till some son or nephew has gained his admission? In other words, lawyers in legislation relating to their own profession stand in a different position from that which any other profession in any other country occupies. Only lawyers legislate as to the standards of their own profession. It would be interesting to inquire how far their treatment of the question has been personal, and how far patriotic.

Without going into this matter in detail, it can at least be said that the various states are slowly improving their standards of admission to the legal pro-

fession. Anything like uniform admission to the bar for the different states is still far in the future, but at least it may be said that the disposition to treat the profession as a quasi-public one, having definite public responsibilities, is growing amongst the various state legislatures, and there is evidence in nearly all states of a willingness to consider the nature of this responsibility to the public. Some state legislatures have in fact been ready to go further than the state executives.

There is a marked tendency within the profession itself to overcome other existing evils, one of which is commercialism. The report of the New York County Lawyers' Association says:

No criticisms of the Bar would be fair or complete without considering the influence which commercialism has had upon it. As we understand it, this phrase represents the concentration of individual ability, experience and wealth into corporate form, so that the qualities which make success can be used as a unit. The unquestioned effect of such an evolution is to affect more or less seriously the intellectual and esthetic tastes of the nation. It has at least been one of the influential causes in turning the profession of the law into a business. An imperfect and unnecessary codification as some believe took away all there was of science in the profession, and commercialism has given it a blow which has converted it into a trade. It seemed almost impossible that the law should escape the spirit of corporate consolidation which, after the

Civil War, began to impregnate commercial life. For thirty years most all conveyancing, an honorable and profitable branch of the profession, has been performed by title searching and guaranty companies. A few corporations have thus usurped and annihilated the business of many hundred lawyers. The attorneys employed to transact the business of these bodies lose all their official individuality and force and become nothing but trained clerks.

Other corporations, societies and agencies exist for collecting debts; for writing briefs and transacting a general law business. This practice became so glaring that a statute of the present legislature prohibits corporations from practicing law in certain cases therein specified.

To cap the climax of professional retrogression, correspondence schools of law have been established, by which ingenious device, individuals are alleged to be adequately instructed in legal principles by written correspondence, thus avoiding office and collegiate courses of legal study. Every branch of the profession of the law is threatened to be swallowed up by this devouring spirit of consolidation, by which the individuality of the lawyer must be extinguished, and almost every valuable attribute of his office, and his relation to the Courts and the government become atrophied or perhaps totally extinguished. For corporations are formed to make money and their first and last inspiration is to pay dividends.

Certainly this dangerous trend of commercialism cannot be overlooked by the Bar and Bench. How, or whether it can be arrested, is a grave problem, but the community is deeply interested in aiding every earnest and intelligent effort to raise the standards of the profession, by prescribing more rigorous methods for educating the students of the law. By this means we can at least guide existing tendencies if we cannot control them.

To correct existing defects and evils in the system of admission to the Bar, the remedies must be deep, if not radical.

They involve the making of rules which will, inter alia, require: first, a full preliminary examination of each applicant under the direction of the Board of Regents; second, the lengthening of the term of legal apprenticeship from three to five years; third, the establishment of a fixed or permanent curriculum of study; fourth, the institution of strict methods to be followed by the committees which pass upon the moral character of the candidates; and fifth, the abolition of rules by which lawyers from other states can be admitted to the Bar by motion upon the mere production of a certificate and placing such applicants upon the same plane as resident candidates, except in extraordinary instances sanctioned by special order of an Appellate Division.

It is not meant to declare or insinuate by the foregoing criticism that the existing system of admissions to the Bar in New York is worse than that which pre-

vails in other jurisdictions. There is a universal and widespread complaint from all the states of the gradual decline of the intellectual condition and morale of the Bench and Bar in the country.

New York, as the leading state of the Union, should make the first step to raise the standard, and establish an esprit de corps of the Bar. The inauguration of reform here would have a most salutary and beneficial influence through the land, and in a few years its effect would be felt everywhere. The lawyers would regain their influence in social and political life. An aristocracy of intellect and culture would again be enthroned. The Bar would mould, if not create, a healthy public opinion, and wherever demagogism appeared in our institutions, or public thought, it would be exorcised and driven from them, and new, equal and healthy inspirations of political and professional advancement prevail.

LIST OF LAW SCHOOLS*

Name of Institution	Location	Instruction given in day or evening	Instructors	Students				Years in Course	Tuition fee
				Men	Women	With a collegiate degree	Graduated in 1916		
ALABAMA									
University of Alabama, Law Department	University, Ala.	day	4	130	2	22	41	2	$75
ARKANSAS									
Arkansas Law School	Little Rock, Ark.	eve.	10	61	..	..	..	2	75
CALIFORNIA									
University of California, School of Jurisprudence	Berkeley, Cal.	day	13	149	12	92	22	3	..
University of Southern California, College of Law	Los Angeles, Cal.	both	40	572	47	..	64	3, 4	56
Southwestern University, Law School	Los Angeles, Cal.	both	22	62	13	9	3	3, 4	85–60
Law Department of St. Ignatius University	San Francisco, Cal.	eve.	9	155	..	..	18	4	50
San Francisco Law School	San Francisco, Cal.	eve.	5	..	..	1	9	4	50
University of California, Hastings College of Law	San Francisco, Cal.	day	7	75	2	9	8	3	..
San Francisco Young Men's Christian Assoc. Law Sch.	San Francisco, Cal.	eve.	10	117	..	1	4	4	50
Santa Clara University, Institute of Law	Santa Clara, Cal.	day	10	67	..	3	19	4	100
Leland Stanford Junior University, Law Department	Stanford University	day	8	187	4	50	32	3	100
COLORADO									
University of Colorado, School of Law	Boulder, Colo.	day	5	69	1	17	13	3	50
University of Denver Law School	Denver, Colo.	day	20	76	2	15	16	3	100
CONNECTICUT									
Yale University Law School	New Haven, Conn.	day	17	196	..	119	43	3	150
DIST. OF COLUMBIA									
Catholic University of America, School of Law	Washington, D. C.	day	5	115	..	5	9	3	150
Georgetown University, School of Law	Washington, D. C.	eve.	53	1001	..	..	300	3	100
George Washington University Law School	Washington, D. C.	1	15	414	11	121	76	3	120
Howard University Law School (colored)	Washington, D. C.	eve.	8	107	3	17	27	3	50
National Univ. Law School	Washington, D. C.	eve.	25	174	..	..	83	3	100
Washington College of Law	Washington, D. C.	eve.	23	47	91	5	38	3	65

* Adapted from Report of the Commission of Education, Depart. of the Interior, 1917, vol. II.

Name of Institution	Location	Instruction given in day or evening	Instructors	Students				Years in Course	Tuition fee
				Men	Women	With a collegiate degree	Graduated in 1926		
FLORIDA									
John B. Stetson University College of Law	Deland, Fla.	day	6	60	8	12	17	2	$40
University of Florida, College of Law	Gainesville, Fla.	day	3	69	..	14	20	2	40
GEORGIA									
University of Georgia, Law Department	Athens, Ga.	day	5	96	..	17	36	2	75
Atlanta Law School	Atlanta, Ga.	?	14	85	1	13	33	2	80
Mercer Univ. Law School	Macon, Ga.	eve.	6	65	..	..	25	2	75
IDAHO									
University of Idaho, College of Law	Moscow, Idaho	day	5	49	..	5	8	3	25
ILLINOIS									
Illinois Wesleyan Univ., Bloomington Law School	Bloomington, Ill.	day	8	104	..	25	34	3	60
Chicago Law School	Chicago, Ill.	both	24	245	10	10	30	3	75–100
Chicago-Kent Law School	Chicago, Ill.	eve.	19	619	27	..	146	3, 4	75
De Paul University Law School	Chicago, Ill.	both	19	173	9	13	20	3	105 d. 75 e.
Hamilton College of Law	Chicago, Ill.	eve.	22	825	..	82	125	3	75
John Marshall Law School	Chicago, Ill.	eve.	10	194	11	..	50	3	80
Loyola University, Law Department	Chicago, Ill.	eve.	20	110	..	21	23	3	75
Northwestern University, Law School	Chicago, Ill.	day	30	331	10	63	..	3	150
Northern Illinois University, Law Department	Chicago, Ill.	both	3	24	..	2	..	3	45
University of Chicago Law School	Chicago, Ill.	day	8	338	13	261	57	3	150
University of Illinois, College of Law	Urbana, Ill.	day	7	93	..	17	25	3	50
INDIANA									
Indiana Univ. School of Law	Bloomington, Ind.	day	6	134	4	31	22	3	..
Central Normal College, School of Law	Danville, Ind.	day	2	33	..	2	2	3	72
Benjamin Harrison Law School	Indianapolis, Ind.	eve.	17	59	1	..	21	2	72
University of Indianapolis, Indiana Law School	Indianapolis, Ind.	day	14	101	2	15	43	2	75
Muncie Normal Institute Law Dept., Muncie Law School	Muncie, Ind.	day	0	..	..	..	..	3	45
University of Notre Dame, Law Department	Notre Dame, Ind.	day	9	177	..	7	37	3	100
Valparaiso Univ. Law School	Valparaiso, Ind.	day	6	190	8	..	45	2	65

Name of Institution	Location	Instruction given in day or evening	Instructors	Students				Years in Course	Tuition fee
				Men	Women	With a collegiate degree	Graduated in 1916		
IOWA									
Drake Univ. College of Law	Des Moines, Iowa	day	7	101	3	2	33	3	$120
State University of Iowa, College of Law	Iowa City, Iowa	day	7	155	1	40	33	3	50
KANSAS									
University of Kansas, School of Law	Lawrence. Kansas	day	7	171	..	..	..	3	[3]
Washburn College, School of Law	Topeka, Kansas	day	18	87	3	4	17	3	60
KENTUCKY									
State University of Kentucky, College of Law	Lexington, Ky.	day	7	136	1	23	29	3	..
Jefferson School of Law	Louisville, Ky.	eve.	14	80	21	..	36	2	75
State University, Central Law School (colored)	Louisville, Ky.	both	5	14	..	5	5	3	50
University of Louisville, Law Department	Louisville, Ky.	day	7	41	3	..	10	2	75
LOUISIANA									
State University of Louisiana, Law Department	Baton Rouge, La.	day	5	65	1	..	14	3	[4]
Loyola University, School of Law	New Orleans, La.	eve.	17	62	..	13	..	3	90
Tulane University of Louisiana, College of Law	New Orleans, La.	day	13	77	1	11	19	3	105
MAINE									
University of Maine, College of Law	Bangor, Maine	day	4	100	1	10	21	3	[5]
MARYLAND									
University of Maryland, Law School	Baltimore, Md.	day	26	425	..	50	54	3	80
MASSACHUSETTS									100,
Boston Univ., Law School	Boston, Mass.	day	30	416	24	67	92	3	150
Portia Law School	Boston, Mass.	eve.	6	..	61	3	8	4	60
Suffolk School of Law	Boston, Mass.	both	10	460	..	..	20	4	60
Northeastern College, School of Law	Boston, Mass.	eve.	15	396	..	..	56	4	75
Harvard Univ., Law School	Cambridge, Mass.	day	11	791	..	786	169	3	150
MICHIGAN									
University of Michigan, Department of Law	Ann Arbor, Mich.	day	17	567	6	221	149	3	[6]
University of Detroit, College of Law	Detroit, Mich.	both	28	72	..	8	11	3	75
Detroit College of Law (conducted by Det. Y.M.C.A.)	Detroit, Mich.	both	28	220	..	16	46	3	75

Name of Institution	Location	Instruction given in day or evening	Instructors	Students				Years in Course	Tuition fee
				Men	Women	With a collegiate degree	Graduated in 1916		
MINNESOTA									
University of Minnesota, College of Law	Minneapolis, Minn.	both	11	171	..	22	30	3	$65
Minnesota College of Law.	Minneapolis, Minn.	eve.	14	178	3	10	8	3	60
St. Paul College of Law	St. Paul, Minn.	eve.	14	271	1	9	51	3	60
MISSISSIPPI									
Millsaps College of Law	Jackson, Miss.	day	2	20	..	..	..	2	60
University of Mississippi, School of Law	University, Miss.	day	2	88	..	..	..	2	50
MISSOURI									
University of Missouri, School of Law	Columbia, Mo.	day	8	121	..	..	..	3	7
Kansas City School of Law	Kansas City, Mo.	eve.	32	287	..	178	53	3	75
City College of Law and Finance	St. Louis, Mo.	eve.	27	135	21	2	12	3	80
St. Louis University, Institute of Law	St. Louis, Mo.	both	32	190	10	50	53	3, 4	100
Washington University, St. Louis Law School	St. Louis, Mo.	day	8	132	5	27	34	3	100
MONTANA									
University of Montana, College of Law	Missoula, Mont.	day	8	89	4	10	10	3	40
NEBRASKA									
University of Nebraska, College of Law	Lincoln, Nebr.	day	8	196	2	10	49	4	45
Creighton Univ., Creighton College of Law	Omaha, Nebr.	both	13	176	4	22	36	3, 4	75, 60
University of Omaha, Omaha School of Law	Omaha, Nebr.	eve.	19	58	3	6	4	4	35
NEW JERSEY									
New Jersey Law School	Newark, N. J.	both	10	196	9	16	45	3	120
NEW YORK									
Union University, Albany Law School	Albany, N. Y.	day	15	233	9	26	60	3	120
St. Lawrence University, Brooklyn Law School	Brooklyn, N. Y.	both	16	267	23	33	59	3	120
University of Buffalo, Buffalo Law School	Buffalo, N. Y.	both	23	147	9	26	35	3	100
Cornell Univ., Col. of Law	Ithaca, N. Y.	day	6	271	7	11	49	3, 4	125
Columbia Univ., Sch. of Law	New York, N. Y.	day	19	526	..	429	134	3	180
Fordham Univ., Sch. of Law	New York, N. Y.	day	11	455	..	146	119	3	110
New York Law School	New York, N. Y.	both	13	603	..	126	112	3	120
N. Y. Univ. Law School	New York, N. Y.	[8]	17	612	93	124	..	3	120
Syracuse University, College of Law	Syracuse, N. Y.	day	21	246	3	3	68	3	150

Name of Institution	Location	Instruction given in day or evening	Instructors	Students				Years in Course	Tuition fee
				Men	Women	With a collegiate degree	Graduated in 1916		
NORTH CAROLINA									
University of North Carolina, Law Department	Chapel Hill, N. C.	day	4	132	2	43	10	2	$70
Trinity College Law School	Durham, N. C.	day	3	13	..	9	5	2, 3	60
Wake Forest Col. Law Sch.	Wake Forest, N. C.	day	2	175	..	..	20	3	88
NORTH DAKOTA									
University of North Dakota College of Law	University, N. D.	day	7	87	6	6	24	3	50
OHIO									
Ohio Northern University, Ada College of Law	Ada, Ohio	day	2	56	..	..	15	3	46
Cincinnati Law School	Cincinnati, Ohio	day	7	73	2	..	20	3	100
Y.M.C.A. Night Law Sch.	Cincinnati, Ohio	eve.	14	134	..	..	26	3	60
Baldwin-Wallace College, Cleveland Law School	Cleveland, Ohio	eve.	12	250	11	23	..	4	70
West. Reserve Univ., Franklin T. Backus Law School	Cleveland, Ohio	day	12	110	..	86	23	3	125
Ohio State University, College of Law	Columbus, Ohio	day	6	165	3	23	24	3	60
St. John's University, College of Law	Toledo, Ohio	eve.	26	42	..	5	7	3	50
OKLAHOMA									
University of Oklahoma, College of Law	Norman, Okla.	day	5	155	2	25	28	3	[9]
OREGON									
Univ. of Oregon, Law School	Eugene Ore.	day	5	30	..	5	..	3	30
Willamette University, College of Law	Salem, Ore.	[10]	6	15	1	7	6	3	60
PENNSYLVANIA									
Dickinson College, Dickinson School of Law	Carlisle, Pa.	day	6	167	1	24	26	3	105
Temple Univ. Law School	Philadelphia, Pa.	eve.	8	167	2	..	..	4	75
University of Pennsylvania, Department of Law	Philadelphia, Pa.	day	15	255	..	134	66	3	200
Duquesne Univ., Sch. of Law	Pittsburgh, Pa.	both	15	45	1	1	7	3	100
University of Pittsburgh, Pittsburgh Law School	Pittsburgh, Pa.	day	16	167	2	92	..	3	100
PORTO RICO									
University of Porto Rico, College of Law	San Juan, Porto Rico	day	4	53	1	..	18	3	25
SOUTH CAROLINA									
University of South Carolina Law School	Columbia, S. C.	day	3	75	..	23	29	2	65

Name of Institution	Location	Instruction given in day or evening	Instructors	Students				Years in Course	Tuition fee
				Men	Women	With a collegiate degree	Graduated in 1916		
SOUTH DAKOTA									
University of South Dakota, College of Law	Vermilion, S. D.	day	4	90	2	6	23	3	$50
TENNESSEE									
Chattanooga College of Law	Chattanooga, Tenn.	eve.	17	88	1	9	31	2	85
University of Tennessee, Law Department	Knoxville, Tenn.	day	7	40	..	3	10	3	100
Cumberland Univ. Law Sch.	Lebanon, Tenn.	day	4	197	2	..	129	1	100
Vanderbilt University, Law Department	Nashville, Tenn.	day	7	56	1	16	18	3	125
TEXAS									
University of Texas, Department of Law	Austin, Texas	day	11	398	9	50	79	3	..
UTAH									
University of Utah, College of Law	Salt Lake City, U.	day	13	91	1	4	5	3	55
VIRGINIA									
University of Virginia, Department of Law	Charlottesville, Va.	day	5	254	..	53	52	3	140
Washington and Lee University, School of Law	Lexington, Va.	day	4	146	..	26	47	3	125
Richmond Coll., Sch. of Law	Richmond, Va.	day	4	35	..	7	7	2	50, 75
WASHINGTON									
Univ. of Wash., Law School	Seattle, Wash.	both	8	171	7	16	34	3	45
Gonzago Univ., Law Dept.	Spokane, Wash.	eve.	21	42	..	12	8	3	75
WEST VIRGINIA									
West Virginia University, College of Law	Morgantown, W. Va.	both	6	58	..	13	9	3	[11]
WISCONSIN									
Univ. of Wisconsin, Law Sch.	Madison Wis.	day	8	222	3	60	37	3	[12]
Marquette University College of Law	Milwaukee, Wis.	both	17	163	4	15	11	3	100

[1] Day and afternoon.
[2] Afternoon.
[3] $25 to residents of Kansas; $35 to nonresidents.
[4] $100 to all students not residents of the United States.
[5] $70 to residents of Maine; $130 to nonresidents.
[6] $67 to residents of Michigan; $77 to nonresidents.
[7] Free to residents of Missouri.
[8] Morning, afternoon and evening.
[9] Free to residents of Oklahoma.
[10] Afternoon.
[11] $25 to students residents of West Virginia; $50 to students nonresidents.
[12] Free to students residents of Wisconsin; $50 per semester to students nonresidents.

BIBLIOGRAPHY

FOOTE, MARY S. *The Need for College Instruction in the Use of Law Books.* The Law Library Journal, vol. x, no. 2, July, 1917, pp. 25–31. The H. W. Wilson Co., New York City.

HARRIS, ARTHUR M. *Letters to a Young Lawyer.* West Publishing Co., St. Paul, Minn., 1912.

HILL, FREDERICK TREVOR. *Lincoln the Lawyer.* Century Co., New York, 1906.

REED, JOHN C. *Conduct of Law Suits out of and in Court.* Introduction by John H. Wigmore. Little, Brown, & Co., Boston, 1912.

ROOT, ELIHU. *Public Service by the Bar.* The Docket, 1705–1708, January, 1917, St. Paul, Minn.

TAFT, WILLIAM HOWARD. *Four Aspects of Civic Duty:* Yale Lectures on the Responsibilities of Citizenship, pp. 35–60; second lecture, *The Duties of Citizenship Viewed from the Standpoint of a Judge on the Bench.* Charles Scribners' Sons, New York, 1908.

—— *The Lawyer of Ideals.* N. S., vol. i. New Jersey Law Review, pp. 1–19, May, 1915.

WARREN, CHARLES. *A History of the American Bar.* Little, Brown, & Co., Boston, 1911.

Rules for Admission to the Bar in the Several States and Territories of the United States. West Publishing Co., St. Paul, Minn., 1917.

PERIODICALS

The leading journals in this field frequently contain articles which are of interest to the general reader, and many of the technical articles are of such a character as to help one in gaining a clearer conception of the opportunities and tendencies in the legal profession. The *Law Library Journal*, published by the Harvard Law School, gives a complete list of all legal publications together with the names of publishers. Nearly every large law school issues a journal or edits a bulletin which may be procured upon request.

PRINTED AT
THE HARVARD UNIVERSITY PRESS
CAMBRIDGE, MASS., U. S. A.